

ATTN: MAIL STOP PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

Wisnewski, Nancy
Brandt, Kevin S.

Serial No.: 10/679,140

Filed: October 2, 2003

Atty. File No.: AD-1-1

For: "CANINE COX-1 NUCLEIC ACID
MOLECULES AND FRAGMENTS
THEREOF" (as amended)

) Group Art Unit: 1652
)
) Examiner: Yong D. Pak
)
) PTO Customer No.: 26949
)

RESPONSE TO RESTRICTION
REQUIREMENT

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS
BEING DEPOSITED WITH THE UNITED STATES POSTAL
SERVICE AS FIRST CLASS MAIL, ADDRESSED TO MAIL
STOP AMENDMENT, COMMISSIONER FOR PATENTS, P.O.
BOX 1450, ALEXANDRIA, VA 22313-1450, THIS 27TH DAY OF
APRIL 2006.

HESKA CORPORATION

By: *Susan A. Gordon*
Susan A. Gordon

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

COPY

Dear Sir:

In response to the Restriction Requirement mailed from the United States Patent and Trademark Office (USPTO) on March 22, 2006, Applicants elect to prosecute Group I, without traverse. In addition, Applicants elect SEQ ID NO:12 for further examination, with traverse.

Attached hereto is a Petition for an extension of time with the requisite fee.

IN THE SPECIFICATION

On page 1, please amend the title of the invention as follows:

--CANINE COX-1 NUCLEIC ACID MOLECULES-AND ~~USES~~ FRAGMENTS
THEREOF--.

NO 220

04 MAY 2006 PM 3 L

FIRST CLASS

Heska Corporation
Intellectual Property Dept.
3760 Rocky Mountain Ave.
Loveland, CO 80538

'06 MAY 9 RCV'D

DOCKETED

80538-7044



DATE: April 27, 2006

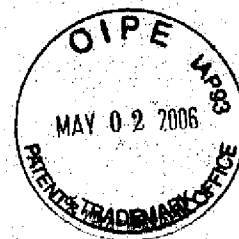
APPLICANT: Nancy Wisnewski and Kevin S. Brandt

SERIAL NO.: 10/679,140

ATTORNEY FILE NO.: AD-1-1

TITLE: "CANINE COX-1 NUCLEIC ACID MOLECULES AND FRAGMENTS
THEREOF" (as amended)

PLEASE STAMP AND CONFIRM RECEIPT IN THE U.S. RECEIVING OFFICE OF
THE FOLLOWING: Original and one copy of Petition for Extension of Time (of one
month) for charge to Deposit Account; Response to Restriction Requirement along with
Exhibit A.





UNITED STATES PATENT AND TRADEMARK OFFICE

RJS/CN

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,140	10/02/2003	Nancy Wisnewski	AD-1-1	7828

26949 7590 09/11/2006

HESKA CORPORATION
INTELLECTUAL PROPERTY DEPT.
3760 ROCKY MOUNTAIN AVE
LOVELAND, CO 80538

EXAMINER

PAK, YONG D

ART UNIT

PAPER NUMBER

1652

DATE MAILED: 09/11/2006

COPY

'06 SEP 18 RCVD

Please find below and/or attached an Office communication concerning this application or proceeding.

Nonfinal OA
3-m response due 12-11-06
w/ents to 3-11-07

DOCKETED

Office Action Summary

Application No.

10/679,140

Applicant(s)

WISNEWSKI ET AL.

Examiner

Yong D. Pak

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-26, 30-35 and 40-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20, 21, 23-25, 30, 32-34, 40 and 44-46 is/are rejected.
- 7) ☒ Claim(s) 22, 26, 31, 35, 41-43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) ☒ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) ☐ Notice of Informal Patent Application (PTO-152) |
| 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/2/03</u> . | 6) ☐ Other: _____ |

DETAILED ACTION

This application is a divisional of 09/919,060, now issued as US Patent No. 6,638,744.

The preliminary amendment filed on October 2, 2003, canceling claims 1-19, adding claims 20-39 and amending page 1 of the specification, has been entered. The amendment is supported by the specification, pages 2-4 and original claims, therefore, the amendment contains no new matter.

The amendment filed on May 2, 2006, canceling claims 27-29 and 36-39, amending claims 20-22, 26, 30-31 and 35, adding claims 40-46 and amending the title, has been entered. The amendment is supported by the specification, as detailed on page 8 of Remarks filed on May 2, 2006, therefore, the amendment contains no new matter.

Claims 20-26, 30-35 and 40-46 are pending and are under consideration.

Election/Restrictions

Applicant's election without traverse of Group I (claims 20-26, 30-35 and 40-46) in the reply filed on May 2, 2006 is acknowledged. Applicants have elected SEQ ID NO:12 as the species, with traverse. The traversal is on the grounds that the six sequences of SEQ ID NOs: 9, 11, 12, 14, 15 and 16 either represent the full length COX-1 cDNA, its complement or fragments thereof; (1) SEQ ID NO:12 is the full-length canine COX-1 cDNA, (2) SEQ ID NO:14 represent the reverse complement of SEQ ID NO:12, (3) SEQ ID NO:15 is the coding sequence of SEQ ID NO:12, (4) SEQ ID NO:16